

**IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF MISSISSIPPI**

**IN RE:**

**SAFE WAY TRANSPORT, LLC**

**CASE NO. 23-00103-JAW**

**DEBTOR**

**CHAPTER 7**

**TRI-STATE TRUCK CENTER, INC.'S MOTION FOR EXAMINATION OF  
KH ENTERPRISE LLC AND PRODUCTION OF DOCUMENTS  
PURSUANT TO RULE 2004**

Creditor Tri-State Truck Center, Inc. d/b/a/ Tri-State Leasing (“TSL”), pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure, files this *Motion for Examination of Debtor and Production of Documents Pursuant to Rule 2004* (“**Motion**”), requesting that the Court enter an order under Rule 2004 directing KH Enterprise LLC (“**KH Enterprise**”) to (a) produce the documents identified in **Exhibit B** within fourteen days of entry of an Order granting this Motion and (b) designate one or more persons to appear on its behalf for examination on the topics identified in **Exhibit A**, with said examination to occur at the offices of Brunini, Grantham, Grower and Hewes, PLLC, at 9:00 a.m. within 24 days after entry of an Order Granting this Motion. In support, TSL states the following:

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding, pursuant to 28 U.S.C. § 157(b)(2).

2. Venue is proper in this Court pursuant to 28 U.S.C. §§1408 and 1409. The relief requested in this Motion is predicated on Bankruptcy Rule 2004 and Local Rule 2004-1.

3. TSL seeks to obtain information concerning the Debtor’s right to a discharge.

**A. Safe Way Transport, LLC**

4. The following information appears on the Mississippi Secretary of State’s website regarding Safe Way Transport, LLC (“**Debtor**”):

- a. The Debtor's principal place of business is located at 907 South State Street, Jackson, Mississippi.
- b. The Debtor's Registered Agent is Tina Henry. Prior to Tina Henry, the Debtor's Registered Agent was Helen Banks, a likely relative of Kina Sanders.
- c. The Debtor's Manager is Kina Sanders f/k/a Kina Banks prior to her marriage to Ken Sanders. On information and belief, Mr. Sanders is an owner of the Debtor.
- d. The Debtor's email address is [accounting@safeway-transport.com](mailto:accounting@safeway-transport.com).
- e. The nature of the Debtor's business is "General Freight Trucking, Long-Distance, Truckload." (**Ex. 1, Safe Way Transport LLC Secretary of State Documents**).

**B. KH Enterprise LLC**

5. The following information appears on the Mississippi Secretary of State's website regarding KH Enterprise:

- a. KH Enterprise registered with the Mississippi Secretary of State on April 30, 2020.
- b. KH Enterprise's principal place of business is 907 South State Street, Jackson, Mississippi (same as the Debtor).
- c. KH Enterprise's Registered Agent is Tina Henry. Prior to Tina Henry, KH Enterprise's Registered Agent was Helen Banks (same as the Debtor).
- d. On February 15, 2023, KH Enterprise filed a Certificate of Amendment naming Kina Sanders as a Manager/Member and Kenyascicus J. Sanders as Manager, Member, and President.
- e. KH Enterprise's email address is [thenry@khenterprise-transport.com](mailto:thenry@khenterprise-transport.com).
- f. The nature of KH Enterprise's business is "General Freight Trucking, Local" and "Specialized Freight (except Used Goods) Trucking, Local." (**Ex. 12 KH Enterprise Secretary of State Documents**).
- g. Tina Henry's email signature block includes both Safeway and KH Enterprise. (**Ex. 3, Email from Tina Henry**).

6. Accordingly, a legitimate basis exists to explore the relationship between KH Enterprise and the Debtor, including potential claims for fraudulent transfers, successor liability,

de facto merger, continuity of enterprise, and similar claims bearing on the Debtor's right to a discharge.

7. Rule 2004 provides that the Court may order the examination and the production of documentary evidence of "any entity" concerning any matter that relates "to the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any other matter which may affect the administration of the debtor's estate, or the debtor's right to a discharge."

8. The general rule is that the scope of an examination under Rule 2004 is very broad and great latitude of inquiry is ordinarily permitted. *See In re Nat'l Risk Assessment, Inc.*, 547 B.R. 63 (Bankr. W.D.N.Y. 2016); *In re Countrywide Home Loans, Inc.*, 384 B.R. 373, 400 (Bankr. W.D. Pa. 2008). All matters relevant to the debtor's financial affairs are allowable subjects of inquiry, and the examination can legitimately be in the nature of a "fishing expedition." *In re J & R Trucking, Inc.*, 431 B.R. 818 (Bankr. N.D. Ind. 2010); *In re Arkin-Medo, Inc.*, 44 B.R. 138 (Bankr. S.D. N.Y. 1984).

9. On March 3, 2023, the original § 341 meeting of creditors occurred, thereby triggering the 60-day window in which to challenge the Debtor's right to a discharge. However, the Debtor inexplicably was not present at the meeting of creditors, and as a result, creditors were deprived of an opportunity to ask the Debtor questions, including questions concerning the Debtor's relationship to KH Enterprise. The Trustee rescheduled the meeting of creditors for April 7, 2023, less than a month prior to the deadline to object to discharge.

10. On March 8, 2023, TSL's counsel and Safeway's counsel spoke regarding a 2004 examination of the Debtor, which included topics and documents related to KH Enterprise. TSL's counsel and Safeway's counsel, both sitting at their computers, viewed and discussed the information described in paragraphs 4-5 above regarding KH Enterprise and the Debtor. While

TSL's counsel believed counsel had reached a tentative agreement regarding the topics for examination and the documents to be produced, Safeway's counsel indicated he needed to speak with his client. On March 20, 2023, Safeway's counsel informed TSL's counsel that the parties were not going to be able to reach an agreement regarding the examination topics or documents identified in TSL's 2004 motion directed to the Debtor, specifically citing the inclusion of topics and documents related to KH Enterprise. Accordingly, TSL's counsel has satisfied Local Rule 2004-1 to make a good faith effort to resolve by agreement any disputes regarding the examination and production of documents under Rule 2004.

WHEREFORE, PREMISES CONSIDERED, TSL respectfully requests that the Court enter an order under Rule 2004 directing KH Enterprise (a) to produce the documents identified in **Exhibit B** within fourteen days of entry of an Order granting this Motion and (b) designate one or more persons to appear on its behalf for examination on the topics identified in **Exhibit A**, with said examination to occur at the offices of Brunini, Grantham, Grower and Hewes, PLLC, at 9:00 a.m. within 24 days after entry of an Order Granting this Motion. TSL requests such other relief as the Court deems appropriate.

Dated: March 22, 2023.

Respectfully submitted,

**TRI-STATE TRUK CENTER, INC. D/B/A TRI-  
STATE LEASING**

By: /s/ William D. Drinkwater  
Of Counsel

OF COUNSEL:

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this date caused to be filed a true and correct copy of the foregoing with the Clerk of the Court using the Court's electronic filing system, which caused notice of such filing to be delivered electronically to all counsel of record. I additionally certify that I have this day caused a copy of the above and foregoing to be served on the following by United States Mail, postage prepaid:

Safe Way Transport, LLC  
c/o Kina Sanders  
907 S. State Street  
Jackson, MS 39201

Bryant D. Guy  
P.O. Box 10173  
Jackson, MS 39286

Stephen Smith  
1052 Highland Colony Parkway, Suite 100  
Ridgeland, MS 39157

United States Trustee  
501 East Court Street  
Suite 6-430  
Jackson, MS 39201

Dated: March 22, 2023.

By: /s/ William D. Drinkwater

**EXHIBIT A**

**EXAMINATION TOPICS**

1. Any of the documents identified or requested in Exhibit B.
2. KH Enterprise's business dealings with its customers.
3. Since April 30, 2020, KH Enterprise's revenues, expenses, and profits.
4. KH Enterprise's liabilities.
5. Since April 30, 2020, any trucks, trailers, equipment, or other assets purchased, sold, transferred, or otherwise disposed of by KH Enterprise.
6. The nature of the KH Enterprise's business, including KH Enterprise's customers or any other person or entity who pays or has paid KH Enterprise for services.
7. The business affairs of KH Enterprise, including past, current, and future business activities of KH Enterprise.
8. The nature, extent, location, and value of the KH Enterprise's assets, including the ownership of the location where KH Enterprise does business.
9. The formation, organization, and governance of the KH Enterprise.
10. The relationship between the KH Enterprise and the Debtor and any affiliates of either.
11. The monetary holdings of KH Enterprise, including the location, account numbers, and balances of all bank accounts and other monetary holdings.
12. Since April 30, 2020, any transfers of assets, contracts, or business to or from KH Enterprise.
13. KH Enterprise's management and employees.
14. Whether any KH Enterprise's owners, members, or managers are owners, members, managers, or otherwise involved with any other company.
15. Any business dealings between KH Enterprise and the Debtor.

**EXHIBIT B****REQUESTS FOR PRODUCTION****GENERAL INSTRUCTIONS**

The term "document" means all written or electronically stored information which includes, but is not limited to, all letters, correspondence, writings, financial statements, rent rolls, operating reports, bank statements, bank reconciliations, receipts, invoices, canceled checks, check registers, cash receipts and cash disbursement journals, leases, deeds of trust, mortgages, accounting journals, inventory reports, contracts, detail regarding improvements, repairs and maintenance, drawings, notes, memoranda, telegrams, charts, appraisal reports, purchase or sale proposals, photographs, photographic slides, sound recordings, images, electronic mail and memoranda and other data or data compilations stored in any medium from which information can be obtained, including but not limited to, records stored in computer hard drives, discs, diskettes, tapes, and/or other portable storage products and personal digital assistants in the actual or constructive control or custody of the Debtor or the Examinee.

The phrase "relating to" means consisting of, referring to, reflecting, or being legally, logically or factually connected in any way with the subject matter.

**DOCUMENTS TO BE PRODUCED**

1. All of KH Enterprise's founding, organizational, or governing documents, including, but not limited to, articles of formation, bylaws, operating agreements, membership agreements, and the like, and all documents amending or supplementing any such documents.

2. Since April 30, 2020, all bank statements, account statements, check images, deposits, and any other documents reflecting deposits, withdrawals, balances, or transfers for any account in which KH Enterprise is or has been an owner or signatory.

3. The signature card(s), including amendments, for any financial account in which KH Enterprise is or has been an owner or signatory.

4. Copies of the KH Enterprise's federal and state income tax returns for the 2020 and 2021 tax years.

5. All of KH Enterprise's minute books, corporate records, minutes, amendments to minutes, actions by managers or members, amendments to records, and any and all related records and/or documents.

6. Since March 6, 2022, all invoices/bills submitted by KH Enterprise.

7. Since March 6, 2022, all purchase orders or similar documents requesting services from the KH Enterprise.

8. Since March 6, 2022, all contracts KH Enterprise has been a party to.
9. Since March 6, 2022, all documents relating to any accounts receivable or payable of the KH Enterprise.
10. Since April 30, 2020, all documents relating to any transfers of assets to or from KH Enterprise.
11. Since April 30, 2020, a complete list of any transfers of real, personal, or intangible property to or by KH Enterprise.